

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.12044 of 2021

Ujjawal Kumar S/O-Shri Brajesh Kumar Chaudhary, R/o-Village-Inarbarwa,
Near Brahmsthan, Post-Jogiya, Police Station-Ramnagar, District-West
Champaran, Bihar-845103.

... .. Petitioner/s

Versus

1. The State of Bihar through its Chief Secretary, Main Secretariat, Bailey Road, Patna-800001
2. Additional Chief Sectary, Disaster Management Department, Government of Bihar, 2nd Floor, Pant Bhawan, Near IndraBhawan, baily Road, Patna, Bihar-800001
3. Chairperson, District Disaster Managment Authority Cum District Magistrate, West Champaran, Bihar.
4. Chief Engineer, Flood Control and Water Drainage Cell, Water Resources Department, Muzaffarpur, Bihar.
5. Sub Divisional Officer, Bettiah, West Champaran, Bihar
6. Secretary, Water Resources Department, Government of Bihar,
7. Executive Engineer, Water Resources Department, West Champaran, Bihar.

... .. Respondent/s

Appearance :

For the Petitioner/s : None

For the Respondent/s : Mr. Binod Kumar Sinha, Advocate

CORAM: HONOURABLE THE ACTING CHIEF JUSTICE
and
HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

(Per: HONOURABLE THE ACTING CHIEF JUSTICE)

7 16-03-2023 There is no representation on behalf of the petitioner.

The present writ application has been filed by the petitioner in the nature of Public Interest Litigation, primarily seeking issuance of directions to different departments of the State Government to execute flood protection work, Disaster Management, Rehabilitation, Reconstruction of Roads, Medical



Facilities, Social Welfare Schemes etc. in flood affected areas of the district of West Champaran. With reference to a village Sherwa, in the said district, it has been stated that the village has a population of 8000 people which is located on the banks of river Masan, which is a seasonal river and causes flood in every monsoon causing destruction to the lives and properties of the residents.

A detailed counter affidavit has been filed in this application on behalf of the respondents No. 4, 6 & 7, stating therein that the flood protection and flood fighting work in the State of Bihar is executed every year by the flood control wing of the Water Resources Department, Government of Bihar to minimise the adverse affects of the disaster of flood and to safeguard the lives and properties of the residents of the flood affected areas. The flood control wing works under the control of the Engineer-in-Chief, Flood Control, Water Resources Department, Government of Bihar, at departmental level and at Zonal level it works under the control of the Chief Engineers, Flood Control and Drainage of different zones. Flood protection work includes contraction, repair, restoration and renovation of embankments, boulder pitching work, anti-erosion work etc. which are executed in terms of the provisions made in the Bihar



PWD Code and concerning Rules framed by the Water Resources Department, Government of Bihar, as well as the departmental instructions issued from time to time for the said purpose.

It has further been stated that the flood fighting work is got executed during flood period, at war footing, by the field officers who are deputed at the embankments and other sensitive places for 24 hours, who send their daily reports of the situation of flood and its danger, to the higher authorities of the Department and work under their direct supervision and monitoring.

In respect of the concerned year, i.e., 2021, it has been stated that flood protection and flood fighting work has been executed by the Department in the State because of which lives and properties of the residents of flood affected areas could be substantially saved. As regards, the district of West Champaran, it has been stated that the flood protection and flood fighting work has been executed and the concerned divisions of the Department in the light of the departmental instructions as well as the instructions issued by the Chief Secretary on 05.05.2021, huge loss of life and property has not been reported. Paragraph 10 of the said counter affidavit deals specifically with the



Sherwa village and it has been stated that there is no embankment situated in the vicinity of the village and therefore, there is no question of repair of any such embankment. It has, however, been stated that a detailed survey work would be carried out after flood period to decide technical feasibility for construction of embankment along Masan river which is a seasonal river. It has also been stated that, in the meanwhile, the concerned authorities have taken steps to prevent erosion of river edge of Masan river.

A supplementary counter affidavit has been filed in pursuance of this Court's order dated 26.10.2022, wherein, it has been stated that with regard to Sherwa village under Ram Nagar Block, a Technical Advisory Committee has recommended for anti-erosion work on Masan river having scope of work as "River Edge Protection by PP Rope Gabions (1.8mx1.8mx0.5m) up to NSL in a length of 1680m" vide Agenda No. 180/100/2022. The said proposal has been approved by the Scheme Review Committee vide letter dated 03.12.2021. Thereafter, a tender of Rs. 553.15 lakh for the aforementioned work at Sherwa village on Masan river has been invited vide Short Term NIT dated 06.12.2021.

There is a reply filed on behalf of the petitioner to the



said counter affidavit to the effect that the answering respondents have not acted in accordance with the mandate of the Disaster Management Act, 2005. The said averment is apparently vague.

In view of uncontroverted averments made in the counter affidavit and supplementary counter affidavit filed on behalf of the State of Bihar and with the efflux of time, no further order is required to be passed in the present Public Interest Litigation.

This application stands disposed of accordingly.

(Chakradhari Sharan Singh, ACJ)

(Madhuresh Prasad, J)

nishant/-

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